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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,602	04/04/2000	James J. Crow	044557.0015	5339
33031	7590	03/15/2006	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			MIRZA, ADNAN M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/542,602

Applicant(s)

CROW ET AL.

Examiner

Adnan M. Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott et al (U.S. 6,335,927) and further in view of Johnson et al (U.S. 2002/0095400).

As per claims 16,22-24,25 Elliott disclosed a method for managing a plurality of services located on a plurality of servers as an extensible services, comprising: providing a service map management service that receives service location information from each of the plurality of services generating a service location map comprising a listing of the plurality of the services included on the extensible service bus and server location information corresponding to each service of the at least one service (col. 30, lines 27-48); a connection status service to monitor the connection status of subscribers and the servers connected to the extensible service bus (col. 37, lines 41-54); and providing a network control service, wherein the network control service causes a setting on a network device to change to establish a network physical connection to the agent machine, and the network physical connection compiles with a requirement for the agent machine to use one of plurality of services (col. 107, lines 41-60).

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However Elliott did not disclose in details providing a registration service where an agent machine can register as a subscriber with the extensible service bus and receive a subscriber identification; providing a login service where the agent machine can connect to the extensible service bus using the subscriber identification.

In the same field of endeavor Johnson disclosed in one embodiment, content delivery bandwidth utilization by individual content supplier or users may be tracked and logged by system management engine enabling an operator of the content supplier or users may be tracked and logged by system management engine enabling an operator of the content delivery system to charge each content supplier or user on the basis of the content volume delivered (Page. 10, col. 0095). Non-continuous and/or stored information management of unique/non-unique information anticipated number of simultaneous subscribers and/or simultaneous stream event duration, system resources per subscriber (Page. 31, col. 0261).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated providing a registration service where an agent machine can register as a subscriber with the extensible service bus and receive a subscriber identification; providing a login service where the agent machine can connect to the extensible service bus using the subscriber identification as taught by Johnson in the method of Elliott to increase the utilization of the server and maintain a premium quality for the customer.

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3. As per claim 17 Elliott and Johnson disclosed providing a subscriber profile database service that stores subscriber data that is required for access to the extensible service bus (Johnson, Page. 35, col. 0291 & 0292).
4. As per claims 18 & 19 Elliott and Johnson disclosed transmitting a copy of the service location map to each subscriber to the extensible service bus (Elliott, col. 30, lines 27-48).
5. As per claim 20 Elliott-Johnson disclosed providing a message posting service for sending messages directly to subscriber when the subscriber is connected to the extensible service bus (Elliott, col. 145, lines 39-51& col. 144, lines 59-67).
6. As per claim 21 Elliott-Johnson disclosed state change service enables the agent machine to communicate via the broadband network (Elliott, col. 135, lines 1-11).
7. As per claim 26 Elliott-Johnson disclosed further comprising causing the agent machine to install a service interface (Elliott, col. 22, lines 19-21).
8. As per claim 27 Elliott-Johnson disclosed further comprising causing the agent machine to update a service interface (Elliott, col. 21, lines 64-67).
9. As per claim 28 Elliott-Johnson disclosed further comprising causing the agent machine to update a load balancing algorithm (Elliott, col. 39, lines 58-65).

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10. As per claim 29 Elliott-Johnson disclosed further comprising causing the agent machine to update a fail over mechanism (Elliott, col. 21, lines 64-67).

11. As per claim 30 Elliott-Johnson disclosed further comprising causing the agent machine to interact in accordance with a distribution architecture (Elliott, col. 135, lines 1-11).

12. As per claims 31-35 Elliott-Johnson disclosed wherein the network device is not one of the plurality of servers (Johnson, Page. 4, Paragraph. 0047).

13. As per claims 36-40 Elliott-Johnson disclosed wherein the setting is a desired line speed (Elliott, col. 135, lines 1-11).

### ***Response to Arguments***

Applicant's arguments filed 01/12/2006 have been fully considered but they are not persuasive. Response to applicant's argument is as follows.

14. Applicant argued that, "Applicant do not have access to the provisional application".

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As to applicant's argument examiner directs the applicant to MPEP 37 C.F.R. 1.14

(a)(1)(v). The MPEPE clearly suggests that burden lies over the applicant to have access to the application

15. Applicant argued that prior art did not disclose, "receiving server location information from each of the plurality of services"

As to applicant's argument Elliot disclosed, "The service ordering, Deployment, Provisioning, Quality of service agreements, and Quality of service monitoring in the ISP Service agreements, and Quality of Service Monitoring are in the ISP Service Management layer. Customers will have a restricted view of the SM layer to monitor and control their services. The SM layer provides a managers the interacts with the agents in the NLMs. The SM layer also provides an agents that interacts with the manager in the Planning Layer. Managers within the SM layer may also interact with other managers in the SM layer. In that case there are manager-agent relationships at the peer level (col. 45, lines 16-26).

16. Applicant argued that prior art did not disclose, "listing of plurality of services and service and location information".

As to applicant's argument Elliot disclosed, "The interesting twist to this idea is that service logic can be deployed onto both network based platforms and onto customer

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premises equipment. This means that service interaction must take place between network-based services and customer based services” (col. 32, lines 48-52).

17. Applicant argued that prior art did not disclose, “generating a service location map comprises a listing of the plurality of services and server location information”.

As to applicant’s argument Elliott disclosed, “The service ordering, Deployment, Provisioning, Quality of service agreements, and Quality of service monitoring in the ISP Service agreements, and Quality of Service Monitoring are in the ISP Service Management layer. Customers will have a restricted view of the SM layer to monitor and control their services. The SM layer provides a managers that interacts with the agents in the NLMs. The SM layer also provides an agent that interacts with the manager in the Planning Layer. Managers within the SM layer may also interact with other managers in the SM layer. In that case there are manager-agent relationships at the peer level (col. 45, lines 16-26).



***Conclusion***

**18. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

**13.** The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

AM

Adnan Mirza

Examiner



JASON CARDONE  
SUPERVISORY PATENT EXAMINER